

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

U.S. DISTRICT COURT  
FILED AT WHEELING, WV  
JUN 29 2010  
NORTHERN DISTRICT OF WV  
OFFICE OF THE CLERK

RYAN TILLEY,

Plaintiff,

v.

Civil Action No. 5:10cv62  
(Judge Stamp)

BRIAN DUKE, SGT. RUSSELL  
POWELL, LT. MIKE WILLIS  
AND ROBERT SMITH,

Defendants.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

On this day, the above-styled matter came before the Court for consideration of the plaintiff, Ryan Tilley's, motion to dismiss his complaint. In the motion, the plaintiff asserts that he no longer wishes to proceed in this civil action and requests its dismissal from the Court's active docket.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, before the opposing party serves an answer or motion for summary judgment, a plaintiff may dismiss his case for any reason. Here, the defendants have not yet been served a copy of the complaint and no answer or other response has been filed. Accordingly, the plaintiff's motion to dismiss his complaint (Dckt. No. 10) is GRANTED and the plaintiff's complaint is DISMISSED WITHOUT PREJUDICE from the active docket of this Court. Should the petitioner choose to appeal the judgment of this Court to the United States Court of Appeals for the Fourth Circuit, he is ADVISED that he must file a notice of appeal with the Clerk of this Court within 30 days after the date of the entry of the judgment order.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to the petitioner and counsel of record herein. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is DIRECTED to enter judgment on this matter.

DATED: June 21, 2010.

A handwritten signature in black ink, appearing to read "Frederick P. Stamp, Jr.", written over a horizontal line.

FREDERICK P. STAMP, JR.

UNITED STATES DISTRICT JUDGE